

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**MAURICE MILLER,**

Petitioner,

V.

**EDWIN R. BROWN, et al.,**

Respondents.

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Civil No. **04-594-DRH**

**ORDER**

**PROUD, Magistrate Judge:**

Before the Court is petitioner's "Motion to Supplement Argument," taking issue with respondent Bowen's failure to file the entire State court record. **(Doc. 12)**. Respondent contends petitioner has procedurally defaulted all issues raised in the petition, thereby precluding consideration of the merits of the issues raised in the petition for writ of habeas corpus. **(Doc. 11)**. Accordingly, respondent has only submitted those portions of the record needed to assess the procedural default question. Petitioner would prefer the entire record be produced, and an evidentiary hearing be held regarding the merits of his petition.

Respondent correctly notes that procedural default prevents a federal court from reaching the merits of any habeas corpus claim. ***Perruquet v. Briley*, 390 F.3d 505, 514 (7<sup>th</sup> Cir. 2004); and *O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999)**. Therefore, the Court must first determine whether petitioner has procedurally defaulted all of the issues raised in the petition. In the event petitioner has not procedurally defaulted one or more issues, then the Court will order respondent to produce the complete State Court record, and the merits of petitioner's issues will then be briefed by the parties. After reviewing the briefs, the Court will determine whether an

evidentiary hearing is necessary.

**IT IS THEREFORE ORDERED** that petitioner's "Motion to Supplement Argument," (Doc. 12) is **DENIED AS PREMATURE**.

**IT IS FURTHER ORDERED** that, although petitioner has previously filed a "Traverse to the Answer," petitioner shall have until **March 24, 2006**, to file any further response to respondent's Answer and assertion that procedural default bars further consideration of the issues raised in the petition for writ of habeas corpus.

**IT IS SO ORDERED.**

**DATED: February 21, 2006**

s/ Clifford J. Proud  
**CLIFFORD J. PROUD**  
**U. S. MAGISTRATE JUDGE**